

REMARKS

The Office Action dated October 6, 2005, has been received and carefully reviewed. The following remarks form a full and complete response thereto. Claims 1-31 remain pending in this application. Further reconsideration is requested.

Claims 1-19 and 30-31 were rejected under 35 U.S.C. § 101 as failing to meet the "technological arts" prong. In view of In re Lundgren, Appeal No. 2003-2008 (BPAI 2005), this rejection is no long valid. Accordingly, the Applicant requests that the rejection under 35 U.S.C. § 101 be withdrawn.

Claims 1-31 were rejected under 35 U.S.C. § 102(e) for being anticipated by May. The Applicant respectfully traverses the rejection and submits that claims 1-31 recite subject matter not disclosed by May.

Claim 1 of the present invention, upon which claims 2-9 depend, defines a method for conducting a financial batch auction after a first period and before a second period. The method includes a step of receiving, during an order acceptance period, orders from a plurality of participants. The orders represent a desire to execute a trade regarding a security. The method includes a step of continuously transmitting to the participants information regarding orders as they are received during the order acceptance period. The method includes a step of allowing the participants during the order acceptance period to modify previously submitted orders only if the modification meets a predetermined set of conditions. The method includes a step of prohibiting the receiving of orders after the order acceptance period. The method includes a step of discovering an optimal price at which a maximum number of shares will be executed

based on all orders received during the order acceptance period. The method includes a step of executing a trade of the maximum number of shares at the optimal price.

Claim 10, upon which claims 11-19 depend, defines a method of performing a batch auction of a security. The method includes a step of compiling an order book, wherein the compiling comprises receiving order information from participants during an order acceptance period, entering orders into the order book, and modifying or canceling orders within the order book in response to modification requests received from participants based upon order information provided to the participants during the order acceptance period where the modification requests satisfy a plurality of predetermined conditions. The method includes a step of discovering an optimal price, wherein the discovering step comprises identifying one or more prices at which the batch auction would produce a maximum number of executed shares, and selecting one of the one or more prices as an optimal price. The method includes a step of executing the batch auction at the optimal price, wherein the executing step comprises crossing orders within the order book at the optimal price.

Claim 20, upon which claims 21-29 depend, defines a computerized system for performing a batch auction of a security. The system includes a computerized network having at least two computers in electronic communication with each other; an order receiving program running on one or more of the computers, wherein the receiving program is designed to receive a plurality of messages containing orders and modifications of prior orders from a plurality of participants during an order acceptance period, and to accept only those orders and modifications of prior orders that meet a set of predetermined criteria; an order book database located on one or more of the

computers, wherein the order book database communicates with the order receiving program and stores each of the accepted orders received by the receiving program; a price discovery program running on one or more of the computers, wherein the price discovery program calculates an optimal price upon which to transact a maximum number of shares of the security during the batch auction based on order information stored in the order book database; a batch auction execution program running on one or more of the computers, wherein the execution program executes the batch auction of the maximum number of shares of the security at a predetermined execution time; and a notification program running on one or more of the computers, wherein the notification program publishes a predetermined selection of data from the order book database during the order acceptance period, and wherein the notification program notifies the participants of the published selection of data during the order acceptance period.

Claim 30 defines a method for conducting a security batch auction cycle. The auction cycle having an order acceptance period, a price discovery period, and an order execution period. The method includes steps of, during a first of two stages of the order acceptance period: accepting requests to enter auction orders into an order book, to modify auction orders within the order book, and to cancel auction orders within the order book; and selecting data from the order book, and publishing the selected data to a plurality of recipients. During the second stage of the order acceptance period: accepting late requests to enter auction orders into the order book if the late requests to enter meet a first set of criteria; accepting late requests to modify orders within the order book if the late requests to modify meet a second set of criteria; and publishing the selected data within the order book to said plurality of recipients. During the price

discovery period: identifying one or more prices at which the batch auction cycle would produce a maximum number of executed shares, and selecting one of the one or more prices as an optimal price. During the order execution period: executing a trade of the maximum number of shares at the optimal price.

Claim 31 recites a method of performing an intermediated batch auction of a security. The method includes a step of receiving a plurality of orders from a plurality of participants during an order acceptance period, each of the orders identifying a desire to trade shares of the security. The method includes a step of providing information to an intermediary regarding the plurality of orders during the order acceptance period, and accepting orders from the intermediary identifying a desire to trade an excess number of shares based on the information. The method includes a step of discovering an optimal price at which a maximum number of the shares identified by the plurality of orders will be executed. The method includes a step of executing a trade of the maximum number of shares and the excess number of shares at the optimal price.

According to the claimed configurations, a batch auction is provided with a price discovery algorithm. Submitted orders may be modified during the order acceptance period, but only when certain conditions are met. For example, an anti-gaming algorithm could be provided that restricts how a qualified participant can change a submitted order during the order acceptance period. In other words, the orders that are submitted may be used for discovering the price - - which is in turn displayed to the participants. Prior to execution of the auction, the participants can change their submitted orders (which can change the discovered price), but only under certain circumstances.

There are, *inter alia*, some notable differences between May and the present invention as defined by the independent claims. First, the system disclosed by May does not allow modification of submitted orders at all. Second, the system disclosed by May does not restrict how modifications to orders can be made.

For at least the foregoing reasons, the Applicant submits that May fails to disclose each and every feature of claims 1-31. Accordingly, the Applicant requests that the rejection of claims 1-31 be withdrawn and that claims 1-31 be allowed.

In view of the foregoing, the Applicant submits that claims 1-31 are now in condition for allowance. Favorable reconsideration of this application and the issuance of a Notice of Allowance are earnestly solicited.

If for any reason the Examiner determines that the application is not now in condition for allowance, it is respectfully requested that the Examiner contact, by telephone, the Applicant's undersigned attorney at the indicated telephone number to arrange for an interview to expedite the disposition of this application.

In the event that this paper is not timely filed, the Applicant respectfully petitions for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account No. 02-2135.

Respectfully submitted,

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